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OFFICE OF PETITIONS

In re Application of :
Gary L. Swoboda :
Application No. 09/920,180 :
Filed: August 1, 2001 :
Attorney Docket No. TI-33147 :
DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 28, 2005, to revive the above-identified application.

The petition is **dismissed**.

This application became abandoned for failure to timely remit the issue fee of \$1,400.00 and the publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") and to file corrected drawings as required by the Notice of Allowability both mailed September 23, 2004. The Notices set forth a three (3) month statutory period for reply. Accordingly, this application became abandoned on December 24, 2004. A Notice of Abandonment was mailed on February 2, 2005.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirement of item (1) above.

As to item (1), the required reply to the Notice of Allowability was not found with the instant petition. Any renewed petition filed must be accompanied by corrected drawings as required by the Notice of Allowability mailed September 23, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450**

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

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